

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1525 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

=====

1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

SHAHBUDDIN GULAMMIYA MULTANI

Versus

COMMISSIONER OF POLICE

Appearance:

MR ANIL S DAVE for Petitioner

MR SS PATEL AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 18/08/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

The petitioner challenges the order of preventive detention dated 8th February, 1999, made by the Commissioner of Police, Surat City, under the powers

conferred upon him under sub-section (1) of section 3 of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as 'the Act').

The petitioner is alleged to be a 'bootlegger' within the meaning of section 2 (b) of the Act, and his activities are found to be prejudicial to the maintenance of public order. Three offences punishable under the Bombay Prohibition Act are registered against the petitioner and are pending trial before the concerned court. Besides, two individuals have given statements in respect of the nefarious activities of the petitioner and its adverse effect on the public order. They have particularly referred to the incidents of 13th November, 1998 and 21st December, 1998. In each of the said incidents, on the witness's refusing to submit to the demand of the petitioner, the petitioner is alleged to have beaten the concerned witness in a public place. On account of the fear of the petitioner and his associates, the other members of the public were prevented from rescuing the witness from the petitioner and his associates. The petitioner and his associates are also alleged to have used lethal weapons to threaten the witnesses and the people gathered and to have terrorised the innocent members of the public. The said incidents are alleged to have created breach of peace and to have disturbed the even tempo of life.

The only ground urged before me is regarding the bail order made in respect of the offence registered as CR No.III 1416/96. It is contended that in respect of the said offence registered on 13th August, 1996, the petitioner was immediately arrested and on his making an application, the concerned court had, on 14th August, 1996 ordered the petitioner to be released on bail. The said order dated 14th August, 1996, has not been furnished to the petitioner. On perusal of the grounds of detention, it is evident that the Detaining Authority has relied upon the factum of the petitioner having been released on bail. It was, therefore, imperative for the Detaining Authority to supply a copy of the bail order along with the grounds of detention. It is undisputed that the above referred bail order dated 14th August, 1996, has not been supplied to the petitioner. Thus, the petitioner has been deprived of his making an effective representation against the order of detention. The continued detention of the petitioner is, therefore, vitiated.

Petition is, therefore allowed. The order dated 8th February, 1999 (Annexure-A to the petition) is quashed and set aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.

.....

JOSHI